

E-132, 299/SA-90-1077 ORDER DENYING RECONSIDERATION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Darrel L. Peterson  
Cynthia A. Kitlinski  
Dee Knaak  
Norma McKanna  
Patrice M. Vick

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of a Petition by  
the City of Rochester,  
Minnesota, for an Order  
Establishing Petitioner's Right  
to Provide Electric Service to  
Certain Street Lights  
Constructed and Owned by  
Petitioner and Located in the  
City of Rochester Adjacent to  
Highway 63 North, in the Service  
Territory of People's  
Cooperative Power Association

ISSUE DATE: April 19, 1991

DOCKET NO. E-132, 299/SA-90-1077

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**PROCEDURAL HISTORY**

On March 15, 1991 the Commission issued its ORDER DENYING PETITION in the above-entitled matter. In that Order the Commission rejected the City of Rochester's claim that it was entitled to serve some 52 street lights within the assigned service area of People's Cooperative Power Association (People's) under Minn. Stat. § 216B.42, subd. 2; under Minn. Stat. § 455.01 et seq.; and under the generally recognized right to produce electricity for one's own consumption.

On April 2, 1991 the City filed a petition for rehearing, reconsideration, and reversal. The City claimed the March 15 Order was unlawful, affected by errors of law, in excess of the Commission's authority, unsupported by evidence, and arbitrary and capricious. The City reiterated its original arguments and alleged that the Order's inclusion of explanatory quotations from an earlier Order was inappropriate.

The Department of Public Service and People's filed responses recommending denial of the petition.

The matter came before the Commission on April 17, 1991.

### FINDINGS AND CONCLUSIONS

The Commission finds that the City's petition raises no new issues, offers no new evidence, and identifies no issues requiring further consideration. The petition restates the City's original arguments, which the Commission has duly re-examined and continues to reject for the reasons set forth in the March 15 Order.

The Commission rejects the City's contention that it was confused in quoting from an earlier Order to help explain why rate differentials are seldom adequate grounds to restrict or expand a utility's right to serve. The Commission understood and understands that the factual situations the two Orders address are different. The policy reasons for according little weight to rate differentials, however, are the same.

The Commission will deny the City's petition.

### ORDER

1. The City of Rochester's petition for rehearing, reconsideration, and reversal is denied.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster  
Executive Secretary

(S E A L)